

OPTIONAL PLAN CONFORMANCE/NEPA COMPLIANCE RECORD

CX-NM-510-2007-0058

Eastern New Mexico University

Serial No.: NM-97000

BLM Office: Roswell Field Office

Proposed Action Title/Type: Right-of-Way Renewal for the following rights-of-way.

NM 97000

Location of Proposed Action: Locations as described in the grant for the above right-of-way.

Description of Proposed Action: Eastern New Mexico University is requesting to renew one (1) Right-of-Way addressed above. Because the right-of-way is a renewal, no balding or disturbance of the surface will be done. Term for the renewal of this right-of-way is for 10 years.

PART I: PLAN CONFORMANCE REVIEW.

The proposed action is consistent with the approved Roswell Resource Area Management Plan and is consistent with Bureau policy and guidance.

The proposed action is consistent with State and local government programs, plans, zoning, and applicable regulations. The land is suitable for the proposed use and would not result in any undue or unnecessary environmental degradation.

PART II: NEPA REVIEW

This proposed action qualifies as a categorical exclusion under 516 DM 6, Appendix 5.4, E (18). The proposed action has been reviewed and determined that none of the exceptions described in 516 DM 2, Appendix 2, apply.

Prepared by:

Reviewed by:

/s/Linda A Askwig 2/6/07

Irene M Gonzales 2/6/07

Linda A. Askwig Date

Irene M. Gonzales Date

III. DECISION.

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved Roswell Management Plan and is consistent with Bureau policy and guidance and that no further environmental analysis is required. It is my decision to renew the right-of-way as described, for 10 year, with an option to renew, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) subject to the terms and conditions in 43 CFR 2880; rental payments as determined by 43 CFR 2803.1-2; and the attached Current Standard Stipulations for Communication Sites and Overhead Powerlines in the Roswell Field Office, BLM.

Compliance and Monitoring: The construction phase of this proposed action and subsequent operational phases will be monitored as per regulation.

Larry D. Bray
Assistant Field Manager
Lands and Minerals

Date



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Roswell Field Office
2909 West Second Street
Roswell, New Mexico 88201-2019

In Reply Refer to:
2800
NM-97000

DECISION

SERIAL NUMBER: NM-97000

NAME OF RIGHT-OF-WAY HOLDER: Eastern New Mexico University
Broadcast Center Station 52
Attn: Jeff Burmeister
KENW-TV
Portales, NM 88130

TYPE OF RIGHT-OF-WAY: Microwave Site & Powerline
LAND INVOLVED: T. 8 S., R. 26 E., N.M.P.M.
Section 12: SESE

Renewal of Right-of-Way Grant Approved

Renewal of this right-of-way is hereby approved effective March 19, 2007 for ten years. This grant shall terminate on March 19, 2016. The renewal is approved subject to the following terms and conditions:

1. All valid rights existing on the date of the renewal.
2. All applicable regulations in 43 CFR 2800 and 2880.
3. Stipulations originally agreed to by grantee.
4. Exhibit A, (current) Roswell Field Office Standard Stipulations for a Communications Site and Exhibit B, for Overhead powerlines.

Larry D. Bray
Assistant Field Manager
Lands and Minerals

Enclosures (2):
Exhibit A, Stipulations
Exhibit B, Stipulations

BLM Serial Number: NM-97000
Company Reference: Eastern NM University

STANDARD STIPULATIONS FOR COMMUNICATIONS SITES
IN THE ROSWELL DISTRICT, BLM

The holder agrees to comply with the following stipulations to the satisfaction of the Authorized Officer, BLM.

1. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant.
2. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et. seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized by this grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
3. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et. seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et. seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
4. The right-of-way herein granted is conditioned upon the submission of a copy of an approved license and/or renewal license granted by the Federal Communications Commission (FCC) or the Interdepartmental Radio Advisory Committee (IRAC) for each electronic station installation authorized by this grant or future amendments of this grant to the Authorized Officer. A copy of the FCC or IRAC authorization shall be submitted within 90 days of issuance of this grant or within 90 days following approval of an amendment to this grant. Failure to submit the FCC or IRAC authorization copy within the time specified shall be grounds for termination of this grant or cancellation of an amendment to this grant. The Authorized Officer may grant an extension of up to 90 days, if requested in writing by the holder.

5. The holder and its sublessees shall at all times operate their radio-electronic equipment in such a manner as not to cause interference with radio-electronic operations of existing users in the vicinity. If such interference results from holder's or sublessee's operations, holder will promptly, at its own expense, modify the equipment and operations, or shut down if necessary to eliminate or reduce the interference to the satisfaction of the FCC, IRAC, and/or the Authorized Officer.

6. The holder shall notify the Authorized Officer of any intent to locate additional users within or upon their existing, not less than 45 days prior to occupancy of holder's facilities. Information that must be included is:

- a. Name, current address, and phone number of the third party user(s).
- b. Expected date of occupancy.
- c. A photo or sketch of the type of antennas to be installed, as well as any other planned physical changes to the exterior facilities operated by the holder. If the proposed use is not specified in the original right-of-way grant, an amendment will be required.

No less than 45 days prior to occupancy of the holder's facility, the holder shall notify existing users within a 1-mile radius that the holder intends to accommodate a new communication user in its facility. Existing users can then file any comments pertaining to potential frequency or electromagnetic problems with the Federal Communications Commission, 1919 M Street NW, Washington, DC 20554, with a copy to the Authorized Officer.

7. The holder shall be held responsible if noxious weeds become established within the area. Evaluation of growth of the noxious weeds shall be made upon discovery. Weed control will be required on the disturbed lands resulting from this actions, which include the roads, pads and associated pipelines and on adjacent lands affected by the establishment of weeds due to this action.

The holder shall insure that the equipment and or vehicles that will be used to construct, maintain and administer the access roads, well pad, and resulting well are not polluted with invasive and noxious weed seeds. Transporting of invasive and noxious weed seeds could occur if the equipment and vehicles were previously used in noxious weed infested areas. In order to prevent the spread of noxious weeds, the Authorized Officer shall require that the equipment and vehicles be cleaned with either high pressure water or air prior to construction, maintenance and administration of the access roads, well pad, and resulting well.

The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods, which include following EPA and BLM requirements and policy.

Exhibit A, Page 2 of 3, February 6, 2007

8. The site shall be maintained in a neat and orderly manner at all times. All trash, rubbish, and

other debris shall be removed and deposited in an approved sanitary disposal site.

9. All above-ground structures not subject to safety requirements shall be painted by the holder to blend with the natural color of the landscape. The paint used shall be a color which simulates "Standard Environmental Colors" designated by the Rocky Mountain Five-State Interagency Committee. The color selected for this project is Slate Gray, Munsell Soil Color Chart Number 5Y 6/1.

10. The holder shall post signs designating the BLM serial number assigned to this right-of-way grant at the following locations: the points of origin and completion, or entry to and exit from public lands, of the right-of-way and at all major road crossings. These signs will be posted in a permanent, conspicuous manner, and will be maintained in a legible condition for the term of the right-of-way.

11. In those areas where erosion control structures are required to stabilize soil conditions, the holder shall install such structures as are suitable for the specific soil conditions being encountered and which are in accordance with sound management practices. Any earth work will require prior approval by the Authorized Officer.

12. The holder agrees to share road maintenance costs with all present and future users of the access road. The holder further agrees to join a road users association if deemed necessary by the Authorized Officer.

13. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on the holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the holder.

14. Special Stipulations

The holder agrees to comply with the following stipulations to the satisfaction of the Authorized Officer, BLM.

1. The Holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this authorization.

2. The Holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the Holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et. seq.) with regard to any toxic substances that are used, generated by or stored on the pipeline route or on facilities authorized. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.

3. The Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et. seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et. seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way Holder's activity on the pipeline). This agreement applies without regard to whether a release is caused by the Holder, its agent, or unrelated third parties.

4. If, during any phase of the construction, operation, maintenance, or termination of the pipeline, any oil or other pollutant should be discharged, impacting Federal lands, the control and total removal, disposal, and cleaning up of such oil or other pollutant, wherever found, shall be the responsibility of the Holder, regardless of fault. Upon failure of the holder to control, dispose of, or clean up such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting there from, the Authorized Officer may take such measures as deemed necessary to control and cleanup the discharge

and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the Holder. Such action by the Authorized Officer shall not relieve the Holder of any liability or responsibility.

5. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the Holder, or any person working on the Holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the holder.

6. The holder is hereby obligated to comply with procedures established in the Native American Graves Protection and Repatriation Act (NAGPRA) to protect such cultural items as human remains, associated funerary objects, sacred objects, and objects of cultural patrimony discovered inadvertently during the course of project implementation. In the event that any of the cultural items listed above are discovered during the course of project work, the proponent shall immediately halt the disturbance and contact the BLM within 24 hours for instructions. The proponent or initiator of any project shall be held responsible for protecting, evaluating, reporting, excavating, treating, and disposing of these cultural items according to the procedures established by the BLM in consultation with Indian Tribes."

7. The holder shall be responsible for weed control on disturbed areas within the limits of the site. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods, which include following EPA and BLM requirements and policy.

8. The holder shall be responsible for maintaining the site in a sanitary condition at all times; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.

9. The holder shall conduct all activities associated with the construction, operation and termination of the powerline within the authorized limits.

10. No blading or clearing of any vegetation will be allowed unless approved in writing by the Authorized Officer.

11. Power lines shall be constructed to standards outlined in "Suggested Practices for Raptor Protection on Powerlines," Raptor Research Foundation, Inc., 1981, unless otherwise agreed to by the Authorized Officer in writing. The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are "eagle safe." Such proof shall be provided by a raptor expert approved by the Authorized Officer. The BLM reserves the right to require modifications or additions to all power line structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modification and/or additions shall be made by the holder without liability or expense to the United States.

12. The holder shall minimize disturbance to existing fences and other improvements on public lands. The holder is required to promptly repair impacted improvements to at least their former state. The holder shall contact the owner of any improvements prior to disturbing them. When necessary to pass through a fence line, the fence will be braced on both sides of the passageway prior to cutting of the fence. No permanent gates will be allowed unless approved by the Authorized Officer.

13. Construction holes left open over night shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.

14. The holder shall evenly spread the excess soil excavated from pole holes in the immediate vicinity of the pole structure.

15. The BLM serial number assigned to this right-of-way grant shall be posted in a permanent, conspicuous manner, and be maintained in a legible condition for the term of the right-of-way at all major road crossings and at all serviced facilities. Numbers will be at least two inches high and will be affixed to the pole nearest the road crossing and at the facilities served.

16. Upon cancellation, relinquishment, or expiration of this grant, the holder shall comply with those abandonment procedures as prescribed by the Authorized Officer.

17. **All surface structures (poles, lines, transformers, etc.)**

shall be removed within 90 days of abandonment, relinquishment, or termination of use of the serviced facilities or within 90 days of abandonment, relinquishment, or termination of this grant, whichever comes first. This will not apply where the power line extends to serve an active, adjoining facility or facilities.

18. Special stipulations:

A. The right-of-way holder shall contact Irene Gonzales five days prior to construction (505-627-0272).